

CHILD WELFARE LEGISLATION

INTRODUCED DURING THE 2004 ANNUAL GENERAL SESSION

(Office of Legislative Research and General Counsel, May 5, 2004)

30 Bills Introduced 17 Bills Passed (1 Vetoed) 13 Bills Not Passed
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BILLS PASSED

H.B. 54 *Videotape of Minors (Rep. W. Harper)*

This bill sets specific requirements for interviewing children during investigations into abuse.

This bill:

- ▶ requires that all investigative interviews of children be videotaped or similarly recorded;
- ▶ requires that the child and interviewer be simultaneously recorded;
- ▶ requires that the recording be continuous and display time and date; and
- ▶ encourages a worker to audiotape all interviews that are not videotaped.

H.B. 60 *Protection of Children in Foster Care (Rep. D. Litvack)*

This bill modifies Division of Child and Family Services provisions.

This bill:

- ▶ gives the Department of Human Services access to provide a complete case history contained in the Management Information System for the purpose of licensing and monitoring foster parents;
- ▶ gives the Office of the Guardian Ad Litem access only to information about children and families where it has been appointed by a court to represent the interests of the children; and
- ▶ provides restrictions and outlines security required for information in the Management Information System.

H.B. 61 *Child Welfare Investigations (Rep. M. Thompson)*

This bill amends the Child Welfare Services Code.

This bill:

- ▶ prohibits a state officer, peace officer, or child welfare worker from entering the home of a minor who is not under the jurisdiction of the court, except in specified circumstances; and
- ▶ makes technical changes.

H.B. 90 *Access to Child Welfare Hearings (Rep. M. Morley)*

This bill amends the Judicial Code.

This bill:

- ▶ changes the date on which any person may be admitted to a child abuse, neglect, or dependency hearing in juvenile court from July 1, 2005 to July 1, 2004.

H.B. 97 *Protective Order Amendments (Rep. K. Holdaway)*

This bill makes changes in the process for filing for child protective orders.

This bill:

- ▶ allows for the transfer of child protection actions from the juvenile court to the district court;
- ▶ requires the clerk of the court to check for any other actions regarding the child:
 - within the courts;
 - within the Division of Child and Family Services; and
 - obtain any reports referred to in the petition as having been made by law enforcement; and
- ▶ reduces the time a respondent can petition for dismissal of the criminal portion of the order from three to two years.

H.B. 120 *Child Welfare Funding for In-home Services (Rep. M. Thompson)*

This bill amends Child and Family Services.

This bill:

- ▶ requires the Division of Child and Family Services to seek funding for in-home services to prevent the removal of children from their homes and promote the preservation of families.

H.B. 140 *Child and Family Services and Related Judicial Code Amendments (Rep. L. Christensen)*

This bill amends child welfare provisions in Child and Family Services and the Judicial Code.

This bill:

- ▶ modifies definitions;
- ▶ exempts health care decisions of a mature minor from the definition of neglect;
- ▶ requires the legislative auditor general to complete an audit of child welfare cases to measure compliance by attorney guardians ad litem with their statutory

- duties;
- ▶ requires the Child Welfare Legislative Oversight Panel to study and make recommendations on specified child abuse, neglect, and dependency issues;
- ▶ requires the juvenile court to recognize the rights of parents and children and the limits placed on the Division of Child and Family Services;
- ▶ clarifies how a petition before a juvenile court may be dismissed at any stage of the court proceedings;
- ▶ makes amendments regarding appointment of a guardian ad litem;
- ▶ modifies reunification services provisions;
- ▶ requires the court to advise an attorney guardian ad litem of the attorney guardian ad litem's duties;
- ▶ requires an attorney guardian ad litem to timely communicate with the parents or guardian of a minor;
- ▶ prohibits an attorney guardian ad litem from making public statements about a child abuse, neglect, or dependency case; and
- ▶ makes technical corrections.

(H.B. 140 was vetoed by the Governor)

H.B. 186 *Evaluation and Counseling Prior to Termination Proceedings* (Rep. M. Thompson)

This bill modifies sections of the Judicial Code dealing with Juvenile Court proceedings.

This bill:

- ▶ allows the juvenile court to appoint any qualified mental health therapist; and
- ▶ prohibits the juvenile court from excluding a mental health therapist because they have not followed the recommendations of the Division of Child and Family Services in another case.

H.B. 197 *Limit on Child Welfare Recommendations and Rulings* (Rep. M. Thompson)

This bill amends the Administrative Procedures Act and the Judicial Code.

This bill:

- ▶ limits factors that may be considered when an agency or court recommends or rules on the custody, placement, or other disposition alternative of a minor, or the termination of parental rights.

H.B. 198 *Child Welfare Court Reports* (Rep. M. Thompson)

This bill amends the Judicial Code to create a disclosure requirement for information used in child welfare proceedings.

This bill:

- ▶ requires a party to a child welfare proceeding to share information with other parties within specified time frames; and
- ▶ creates an exception for pretrial and certain drug court hearings.

H.B. 259 *Special Needs Adoption - Preplacement Evaluations* (Rep. A. Hardy)

This bill modifies adoption provisions in the Judicial Code.

This bill:

- ▶ requires that the preplacement evaluation of a special needs child be conducted by the Department of Human Services or a licensed child placing agency contracted by the division to conduct preplacement evaluations; and
- ▶ requires the adoptive parent or parents to pay for any fee assessed by the evaluating agency.

H.B. 268 *Child Welfare Processes* (Rep. M. Thompson)

This bill amends Child and Family Services and the Judicial Code and creates the Office of Child Welfare Parental Defense.

This bill:

- ▶ amends the definition of "protective services";
- ▶ requires the Division of Child and Family Services to accommodate the moral and religious beliefs, and culture, of those it serves;
- ▶ requires the Division of Child and Family Services to design treatment plans in a manner that minimizes disruption to the normal activities of the child's family;
- ▶ makes corrections to the terms "unsubstantiated" and "substantiated";
- ▶ expands interdisciplinary child protection team membership;
- ▶ requires notice to parents of their rights before conducting a child abuse or neglect investigation;
- ▶ expands who can serve as support persons;
- ▶ limits the types of identifying information that may be stricken from a record released by the Division of Child and Family Services;
- ▶ creates within the Department of Administrative Services the Office of Child Welfare Parental Defense;
- ▶ defines terms;
- ▶ appoints a director to the office;
- ▶ sets forth the duties, functions, and responsibilities of the office;
- ▶ outlines the qualifications, responsibilities, and standards for a contracted parental defense attorney;
- ▶ classifies records of a contracted parental defense attorney as protected and indicates that the records may not be released or made public upon subpoena, search warrant, discovery proceedings, or otherwise;
- ▶ provides for child welfare parental defense contracts;
- ▶ creates the Child Welfare Parental Defense Fund and specifies state and county obligations;
- ▶ imposes district court limits on any juvenile court using a parent's disability as a basis for changing a custody award made in district court;
- ▶ modifies access to juvenile court proceedings;
- ▶ prohibits a juvenile court from using disability of a

parent as a basis for removing a child from the custody of the parent;

- ▶ requires recording of unauthorized ex parte communications concerning an ongoing case between a judge and other parties to an abuse, neglect, or dependency proceeding;
- ▶ amends preferential placement provisions for children removed from their homes due to abuse, neglect, or dependency;
- ▶ addresses a court determining and defining responsibilities under a treatment plan;
- ▶ requires the Office of the Guardian Ad Litem to make an annual report to the Child Welfare Legislative Oversight Panel;
- ▶ addresses appointment of counsel; and
- ▶ makes conforming changes and technical corrections.

H.B. 303 ***Child Welfare Revisions*** (Rep. S. Mascaro)

This bill amends Division of Child and Family Services child abuse, neglect, and dependency investigation requirements.

This bill:

- ▶ modifies the requirement to interview a child's parents or guardian;
- ▶ provides an exception to the unscheduled visit requirement under specified circumstances;
- ▶ makes corrections to the terms "unsubstantiated" and "substantiated"; and
- ▶ makes other technical corrections.

S.B. 79 ***Repeal of Child Welfare Worker Designations***
(Sen. D. Eastman)

This bill repeals provisions from Child and Family Services and Personnel Management.

This bill:

- ▶ repeals a provision authorizing the Division of Child and Family Services to certify child welfare social service workers and child welfare social workers for purposes of calculating benefits and salary ranges; and
- ▶ repeals a provision specifying how pay plans for certified child welfare workers are to be developed by the Department of Human Resource Management.

S.B. 81 ***Child and Family Services - Plea in Abeyance***
(Sen. P. Hellewell)

This bill amends child and family services provisions in the Utah Human Services Code.

This bill:

- ▶ makes a technical change that requires a court to enter a finding rather than make a determination.

S.B. 104 ***Selection of Mental Health Therapist in Termination of Parental Rights*** (Sen. P. Hellewell)

This bill amends the Termination of Parental Rights Act.

This bill:

- ▶ specifies that the juvenile court may not refuse to appoint a mental health therapist because the therapist has not followed the recommendations of the Office of the Guardian Ad Litem in another case; and
- ▶ requires the juvenile court to give strong consideration to the wishes of the parent or guardian regarding the selection of a mental health therapist.

S.B. 179 ***Expedited Appeals in Child Welfare Cases***
(Sen. L. Hillyard)

This bill amends provisions relating to appeals from juvenile court cases.

This bill:

- ▶ creates an expedited process for appeals from juvenile court orders;
- ▶ requires the notice of appeal to be signed by appellant's counsel and appellant, unless the appellant is a minor child or the state;
- ▶ provides that failure to timely sign a notice of appeal results in the dismissal of the appeal;
- ▶ requires the attorney general to represent the state in all appeals under this chapter;
- ▶ requires the court to notify the parties in open court of the requirements regarding filing an appeal;
- ▶ requires parties to an appeal to maintain regular contact with their counsel and keep all other parties and the appellate court informed of their whereabouts;
- ▶ requires the court to inform the parties' counsel of their obligation to represent their clients throughout the appellate process unless relieved of that obligation;
- ▶ repeals the minor and other parties' right to appeal if they were not represented by counsel; and
- ▶ makes technical changes.

BILLS NOT PASSED

H.B. 129 Child Protection Team Meetings

H.B. 151 Protective Custody of Abused, Neglected, or Dependent Children

H.B. 266 Revisions to Child Welfare

S.B. 54 Restructuring Division of Child and Family Services

S.B. 56 Jury Trial for Termination of Parental Rights

S.B. 90 Medical Neglect - Exclusion

S.B. 99 Child and Family Services - Standard of Review

S.B. 100 Adoption Responsibilities - State Oversight

S.B. 103 Child Removal Amendments

S.B. 105 Abuse, Neglect, and Dependency Amendments

S.B. 126 Amendments to Warrants

S.B. 188 Compliance of Treatment Plan

S.B. 211 Management of Guardians Ad Litem by Administrative Office of the Courts